

IN RE: PETITION FOR RESIDENTIAL ZONING VARIANCE N/S Rockwell Ave., 25 ft. W of c/l of Bathurst Road 2413 Rockwell Avenue 1st Election District 1st Councilmanic District Dominic V. Clarke, et ux Petitioners

\* BEFORE THE ZONING COMMISSIONER OF BALTIMORE COUNTY Case No. 91-96-A

#### FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Petitioners herein request a variance, pursuant to Section 22-26(b)(1) of the Baltimore County Code and Section 400.1 of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit an accessory structure (above ground swimming pool) in the side yard in lieu of the required rear yard, as more particularly described on Petitioners' Exhibit No. 1.

The Petitioners having filed a Petition for a Residential Variance, the subject property, known as 2413 Rockwell Avenue, zoned D.R. 5.5, having been posted and there being no request for a public hearing, this matter is ready for determination. The Petitioners are requesting a variance to permit an accessory structure (above ground swimming pool) in the side yard in lieu of the required rear yard.

The Petitioners have filed the supporting affidavits, as required by Section 22-26 (b)(1) of the Baltimore County Code. There is no evidence in the file or record to indicate that the subject variance would adversely affect the health, safety and/or general welfare of the public.

In the opinion of the Zoning Commissioner, it is established that the information and affidavits provide sufficient facts that comply with the

requirements of Section 307.1 of the B.C.Z.R. Furthermore, strict compliance with the B.C.Z.R. would result in practical difficulty and/or unreasonable hardship upon the Petitioner. Based upon the information available, the relief should be granted.

Pursuant to the posting of the property and the provisions of both the Baltimore County Code and the Baltimore County Zoning Regulations, and for the reasons given above, the requested variance should be granted.

THEREFORE, IT IS ORDERED by the Zoning Commissioner for Baltimore County this 19th day of Oct., 1990 that the Petition for a Zoning Variance, pursuant to Section 22-26(b)(1) of the Baltimore County Code and Section 400.1 of the Baltimore County Zoning Regulations (B.C.Z.R.), to permit an accessory structure (above ground swimming pool) in the side yard in lieu of the required rear yard, in accordance with Petitioners' Exhibit No. 1, is hereby GRANTED.

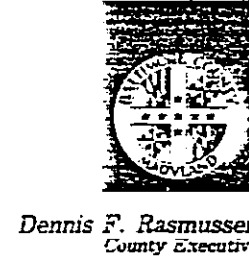
*J. Robert Haines*  
J. ROBERT HAINES  
Zoning Commissioner  
for Baltimore County

JRH:mmm

ORDER RECEIVED FOR FILING  
Date 10/19/90  
By Mr. Haines

Baltimore County  
Zoning Commissioner  
Office of Planning & Zoning  
Towson, Maryland 21204  
(301) 887-3353  
J. Robert Haines  
Zoning Commissioner

October 17, 1990



Dennis F. Rasmussen  
County Executive

Mr. and Mrs. Dominic V. Clarke  
2413 Rockwell Avenue  
Baltimore, Maryland 21228

RE: Petition for Residential Zoning Variance  
Case No. 91-96-A

Dear Mr. and Mrs. Clarke:

Enclosed please find the decision rendered in the above captioned case. The Petition for Residential Variance has been granted, in accordance with the attached Order.

In the event the decision rendered is unfavorable to any party, please be advised that any party may file an appeal within thirty (30) days of the date of the Order to the County Board of Appeals. If you require additional information concerning filing an appeal, please feel free to contact our Appeals Clerk at 887-3391.

Very truly yours,

*J. Robert Haines*  
J. Robert Haines  
Zoning Commissioner

JRH:mmm  
encl.  
cc: Peoples Counsel

MICROFILMED

## PETITION FOR RESIDENTIAL VARIANCE

TO THE ZONING COMMISSIONER OF BALTIMORE COUNTY:

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, petition for a Variance from Section 400.1 of the Baltimore County Zoning Regulations to permit an accessory structure (above ground pool swimming pool) in the side yard in lieu of the required rear yard. of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County, for the following reason(s) (indicate hardship or practical difficulty):  
Back yard not deep enough to accommodate pool.

Property is to be advertised and/or posted as prescribed by Zoning Regulations.

I, or we, agree to pay expenses of the above Variance posting and, if necessary, advertising, of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County.

I/We do solemnly declare and affirm, under the penalty of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

Contract Purchaser:

(Type or Print Name)

Signature

Address

City/State/Zip Code

Attorney for Petitioner:

(Type or Print Name)

Signature

Address

Attorney's telephone number

Legal Owner(s):

(Type or Print Name)

Signature

(Type or Print Name)

Signature

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City/State/Zip Code

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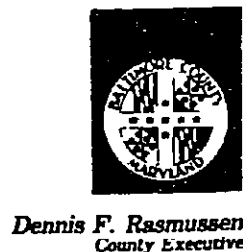
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Baltimore County  
Department of Permits & Licenses  
Towson, Maryland 21204  
494-3610  
Ted Zaleski, Jr.  
Director

PERMIT #  
DISTRICT 01 PREC. 009  
LOCATION 2413 ROCKWELL AVE.  
BALTIMORE, MD. 21206



Reference is made to the swimming pool which you propose to construct at the subject location; please be advised as follows:

1. The pool must be emptied by a sprinkler system or other methods at such a rate as to prevent the nuisance and/or water damage to the adjacent properties, whether by a sprinkler system or other methods.
2. In the event the backwash water from the filtering system is to be discharged into a storm drain system and a diatomaceous earth filter is used, a settling tank must be provided. If a storm drain system is to be used for the backwash water, please consult Public Services.
3. Care should be exercised in any regrading of the pool site area to provide for the adequate disposal of surface drainage. The finished construction must meet existing property line grades. The correction of any problem resulting from improper grading is the full responsibility of the property owner.
4. No construction is allowed in any County-owned easement, and/or any regrading allowed within the aforementioned area.
5. Pool cannot be placed within 10' of any overhead wires (NEC 680-8).
6. Pool must be protected by 48" fence with no openings larger than 6".

This letter must be signed by the owner in fee and filed with the building application. Any other signature is not acceptable and will nullify the permit.

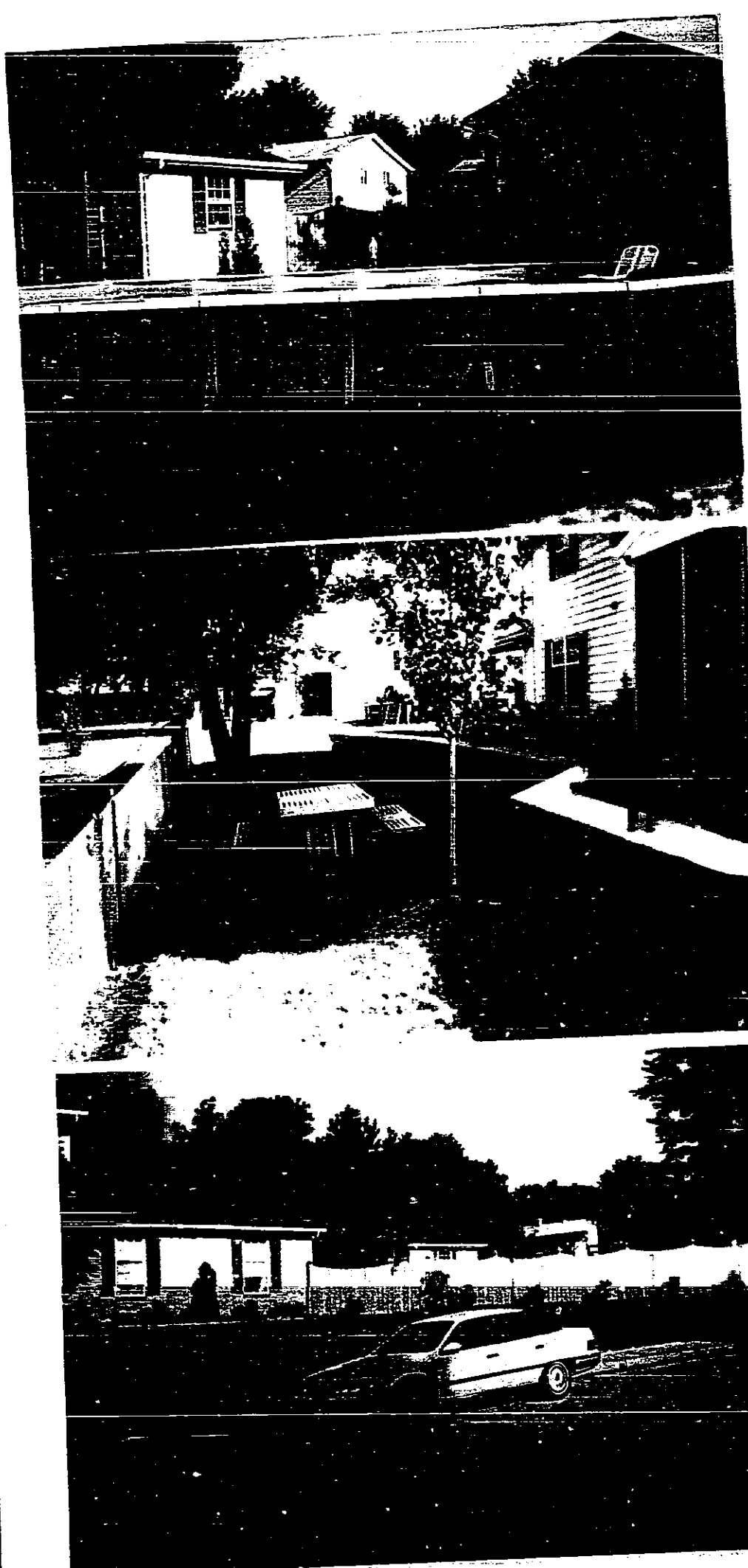
Respectfully,  
*Douglas A. Swan*  
Douglas A. Swan  
Processing Supervisor

*Douglas A. Swan*  
Signature of Owner in Fee

7/17/66  
Date

PETITIONER'S EXHIBIT # 3

CASE NUMBER: 91-96-A



Side Yard View

Back Yard View

Front Yard View

#91

This Deed, MADE THIS 27 day of February

in the year one thousand nine hundred and seventy eight by and between LILY M. LILLEY, Widow and surviving tenant by the entirety of William H. Lilley, deceased

of Baltimore County, State of Maryland of the first part, and DOMINIC V. CLARKE and MONIKA E. CLARKE, his wife,

of the second part.

WITNESSETH, That in consideration of the sum of Five Dollars (\$5.00) and other good and valuable considerations, the receipt of which is hereby acknowledged, the said Lily M. Lilley, Widow,

does grant and convey to the said Dominic V. Clarke and Monika E. Clarke, his wife, as tenants by the entireties, the survivor of them, the heirs,

personal representatives, executors and assigns of said survivor, in fee simple, all

those lots of ground situate in First Election District, Baltimore County, State of Maryland, and described as follows, that is to say: FIRST PARCELS: Beginning for the same at an iron pipe on the North side of Rockwell Avenue said point of beginning being at the end of the 9th or North 68 degrees West 9 perches line of a deed dated August 5, 1904 and recorded among the Land Records of Baltimore County in Liber WPC 278, folio 345 from Herman L. Piel and Caroline E. Piel, his wife, to said Jennie C. Harris and running thence along the Northern edge of said Rockwell Avenue and along part of the 10th line of the last mentioned deed with an allowance of 1 1/2 degrees to correct the variation

- (1) North 73 degrees 6 minutes West 60 feet to an iron pipe planted at the eastern edge of a proposed 40 foot avenue now laid out thence leaving said Rockwell Avenue and running along the eastern edge of said proposed avenue
- (2) North 17 degrees 53 minutes East 200 feet to an iron pipe thence running at right angles to the said last mentioned line
- (3) South 73 degrees 6 minutes East 100 feet to an iron pipe thence running at right angles to said last mentioned line
- (4) South 17 degrees 53 minutes West 203 feet 1 inch to an iron pipe planted at the end of 108 foot 5 inch line on and in the aforesaid 9th line of the deed from Herman L. Piel and wife to Jennie C. Harris thence running along the remainder of the said 9th line and still along the northern edge of said Rockwell Avenue
- (5) North 68 degrees 41 minutes West 40 feet 1 inch to an iron pipe at the place of beginning.

SAVE AND EXCEPT that parcel which by Deed dated March 17, 1966 and recorded among the Land Records of Baltimore County in Liber No. 4594, folio 35, etc., was granted

225.00 AC (continued)

#91

PETITIONER'S EXHIBIT # 4

CASE NUMBER: 91-96-A

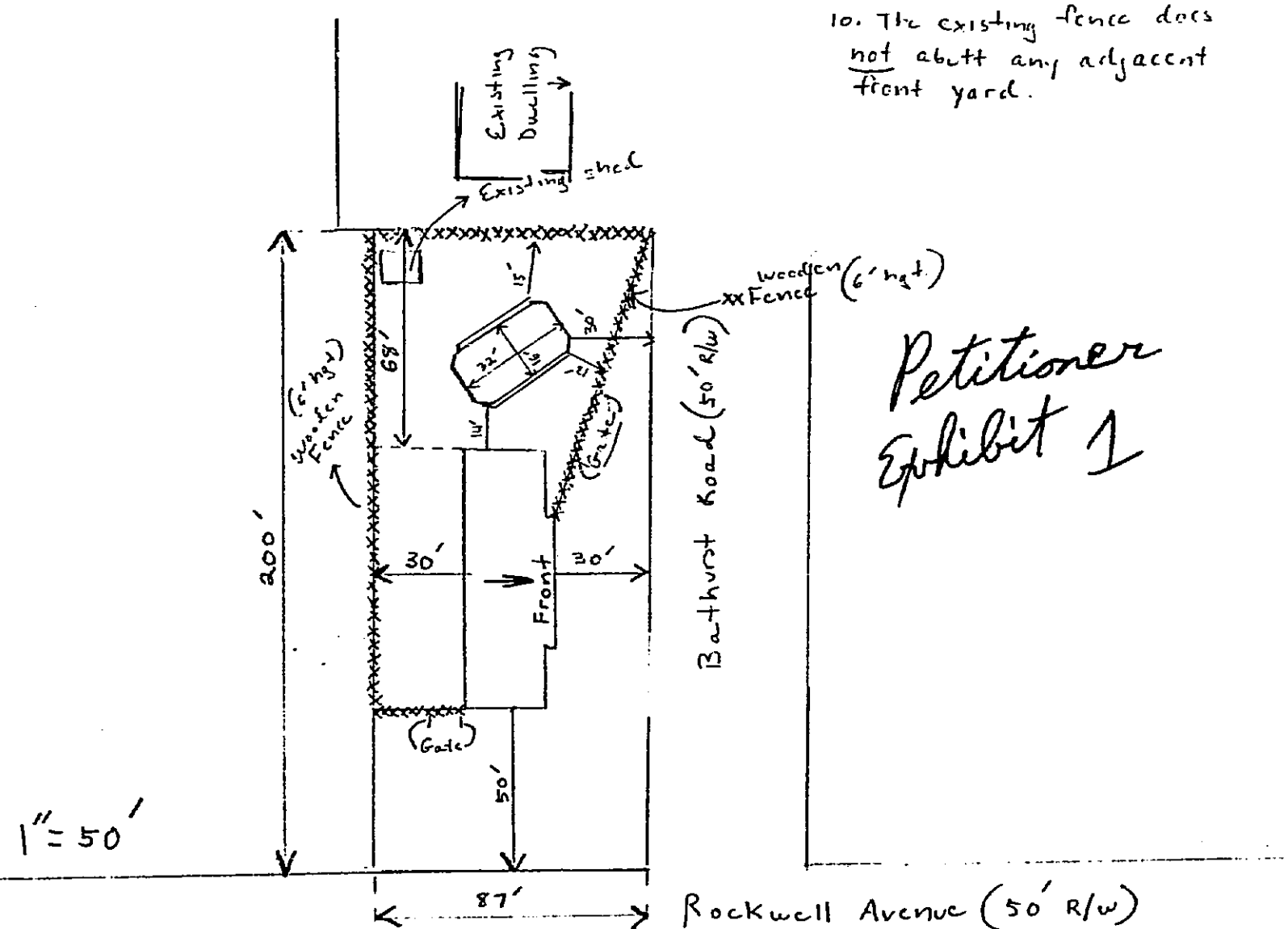
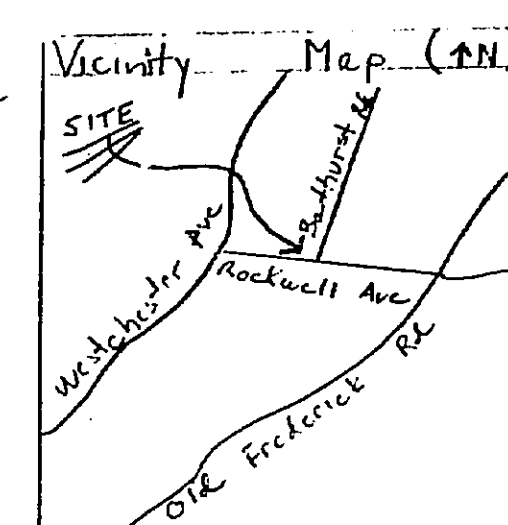


Back Yard View

#91

# PLAT FOR ZONING VARIANCE

1. Owner - Dominic and Monika Clarke
2. Zoning - DR 5.5
3. Address - 2413 Rockwell Avenue
4. 1st Councilmanic District
5. 1st Election District
6. Lot size - 17,400 sq. ft. or .399 Ac.
7. Lot is not part of a recorded subdivision based on the deed (Deed Ref. Liber WPC 278 folio 345)
8. Lot is not in the Chesapeake Bay Critical Area (acc. to Balto Co. Critical Area Map)
9. Public utilities are located in Rockwell Avenue
10. The existing fence does not abut any adjacent front yard.



\* - Variance is from Section 400.1 of the Baltimore County Zoning Regulations to permit an accessory structure (above ground swimming pool) in the side yard in lieu of the required rear yard.

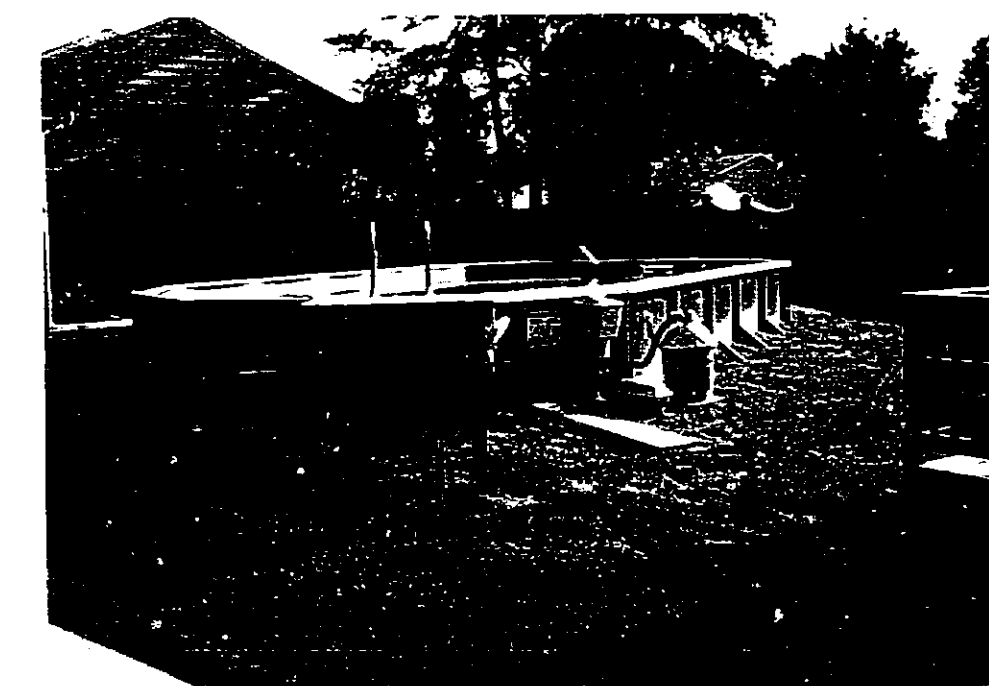
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North

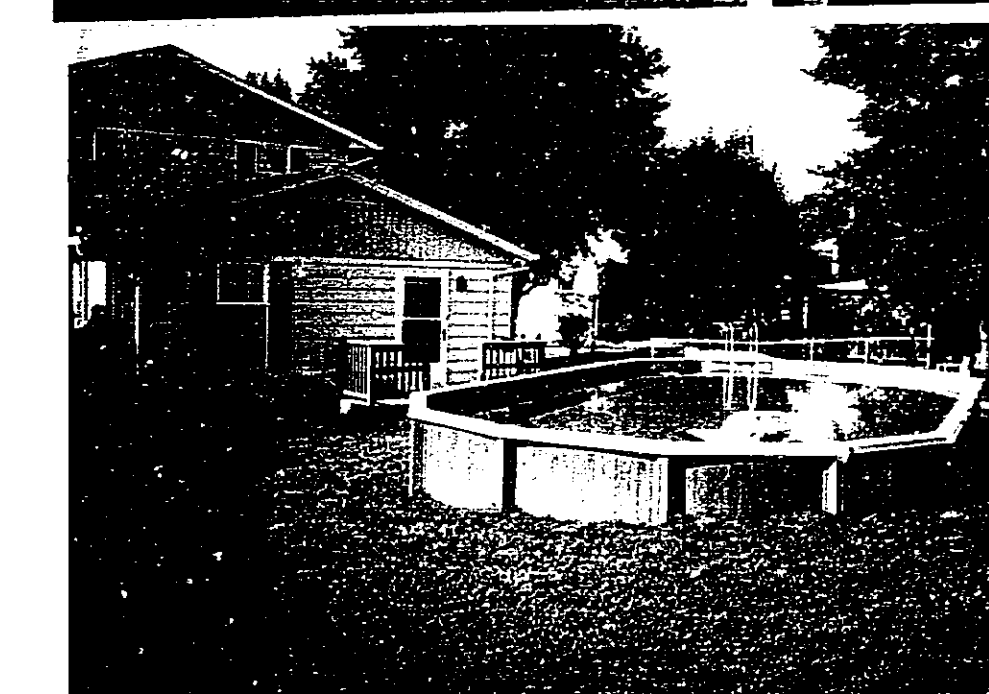
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PETITIONER'S EXHIBIT # 2

CASE NUMBER: 91-96-A



Side Yard View



#91

